IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 232 OF 2003

Nashik Workers Union ...Petitioner

Versus

Hindustan Aeronautics Ltd. & Ors. ...Respondents

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Mr. Bhavesh Parmar with Colin Gonsalvis, counsel for Petitioner

Mr. Piyush Shah, counsel for Respondent No. 1.

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CORAM: B. H. MARLAPALLE, J.

DATED: 13TH APRIL, 2005

P. C.:-

1. Heard the learned counsel for the petitioner as well as the respondent company. The petitioner union alleged that the present respondent Nos. 2 to 5 and the officers of the respondent No.1 company have wilfully violated the order dated 2.3.2001 passed by this Court in Writ Petition No. 3562 of 1997 and thus, committed contempt of the Court within the meaning of Section 2(b) of the Contempt of Courts Act, 1971.

2. Para 14 of the said order dated 2.3.2001 passed by this Court reads as under:-

"The other facts is that on behalf of the petitioner, an affidavit was filed that the trainees were in fact offered employment in terms of the assurance made to this Court. I do not propose to enter into that arena as Contempt Petitions filed, are pending before this Court. Suffice it to say, that the grievance is that what was offered was not regular employment but temporary or for a short period. Many members of the petitioner therefore, did not apply by giving up the permanent job they had or that the offer made was for a temporary period they preferred not to join the temporary job least they lost their regular job considering their earlier experience. To my mind when the statement was made on behalf of the petitioner it was to offer the said trainees regular job and not temporary job. In the light of that though I allowing the petition, petitioner to consider the cases of those trainees either who had applied or who had applied but were offered temporary job and did not accept the same. To such persons petitioner to make an offer as and when regular vacancies arise for consideration. In the

event they fulfil required qualification then to consider them for regular job. These observations are independent of the proceedings which are pending before this Court for contempt of this Court’s order."

3. It is contended that the company has failed to make offers of permanent employment for the apprentices and instead the applications were called by releasing advertisements and thus making offers available to others as well. In the additional affidavit filed by the petitioner it has been stated that " Till date no categorical offer to the members of the petitioner Union has been made by the respondent company to accommodate them in employment against the permanent vacancy. The offers made earlier were only for one year period on temporary basis only".

4. The order dated 2.3.2001 passed in writ petition No. 3562 of 1997 has to be read to the limited extent and it is only in respect of the apprentices who were concerned with the writ petition No. 3562 of 1997. The directions of this Court cannot be interpreted to be the directions for all the times to come. Instead it was the direction only in respect of those apprentices who had neither applied nor were

selected on the earlier occasion. Affidavit in reply filed by the Deputy General Manager (P & A) on behalf of the respondent company states that in Exh.II annexed to writ petition No. 3562 of 1997 in all 127 apprentices were listed and 118 of them were provided for an opportunity of selection by the company. 78 candidates were absorbed, 9 were issued with an offer of appointment but the offer was cancelled on account of failure to report, two were terminated as per the standing orders and 29 had not attended the written test and only 9 machinists out of total 127 could not be offered as there was no requirement for the post of machinist. Thus, the remaining apprentices were 29 who did not attend the interview and nine machinists who could not be considered on account of no vacancy, if regards be had to the observations made by this Court in para 14 quoted hereinabove. The affidavit has further clarified that the post of machinist did not arise and by office order dated 9.7.2001 and 29.7.2002 technicians were inducted and subsequently they have been made permanent, if the respondent does not have openings for a particular trade and therefore, it is not able to offer the employment opportunity to the apprentices from such trades, it cannot be charged of contempt of court. The company has also clarified that while filling in the permanent vacancy initial offer was made for one year on contract basis and depending on the

performance during such period of one year an offer for permanent employment is made. If this is an established practice of the respondent No.1 company, it cannot be said that this failure to make an offer of permanent employment right at the first instance is contemptuous. The petitioner Union cannot insist that the offer must be made only to its members and in any case such is not the scope of the order passed by this Court in writ petition No. 3562 of 1997. It is clear that the respondent company has taken due steps to follow the directions given by this Court in writ petition No. 3562 of 1997 and there is no case made out of wilful disobedience of the said order by any of the respondents.

5. Hence, there is no prima facie case to take cognizance for contempt within the meaning of Section 2(b) of the Contempt of Courts Act, 1971 and the Contempt Petition is rejected summarily.

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